

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 3:05-CR-97-PLR
)	
BENJAMIN GARY)	

MEMORANDUM AND ORDER

This matter is before the court on the defendant's motion for sentence reduction pursuant to Amendment 782 to the United States Sentencing Guidelines [R. 68]. The government has responded deferring to the court's discretion whether and to what extent to reduce defendant's sentence [R. 69]. The United States Probation Office has provided the court with a memorandum regarding retroactivity of Amendment 782. The defendant is presently scheduled for release on March 31, 2016.

The defendant was convicted of conspiring to distribute and possess with intent to distribute at least five grams of cocaine base, in violation of 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(B); and possessing a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c). At sentencing, defendant's base offense level was 25, with a criminal history category V, resulting in an advisory guideline range of 160 - 185 months. Defendant was sentenced on March 27, 2006, to 160 months imprisonment.

Subsequently, defendant's sentence was reduced to 144 months pursuant to Amendment 706 to the United States Sentencing Guidelines.

Amendment 782 further reduces the guideline range applicable to defendant. Pursuant to Amendment 782, defendant's base offense level is 21, with a criminal history category V, resulting in an amended guideline range of 130 - 147 months. Taking into account the policy statements set forth at USSG § 1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), it is hereby ORDERED that the defendant's motion [R. 68] is GRANTED, and the defendant's sentence is **reduced to 130 months**.

If this sentence is less than the amount of time the defendant has already served, the sentence is reduced to a "time served" sentence. *See* USSG § 1B1.10(b)(2)(C).

Except as provided above, all provisions of the judgment dated March 27, 2006, shall remain in effect. **The effective date of this order is November 2, 2015.** *See* USSG § 1B1.10(e)(1).

IT IS SO ORDERED.

Enter:


UNITED STATES DISTRICT JUDGE